

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Bobby Joe Fulton, Jr.,) Case No. 6:18-03254-DCC
)
 Plaintiff,)
)
 v.) **ORDER**
)
)
 State of South Carolina,)
)
)
 Defendant.)
)

This matter is before the Court on Plaintiff's Complaint alleging violations of his civil rights pursuant to 42 U.S.C. § 1983 and Plaintiff's Motion for Preliminary Injunction. ECF Nos. 1, 3. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Kevin F. McDonald for pre-trial proceedings and a Report and Recommendation ("Report"). On December 17, 2018, the Magistrate Judge issued a Report recommending that the Complaint be dismissed without prejudice and without issuance of service of process and that the Motion for Preliminary Injunction be found as moot. ECF No. 10. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff has filed no objections, and the time to do so has passed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The

Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the recommendation of the Magistrate Judge. The Complaint is **DISMISSED** without prejudice and without issuance of service of process. The Motion for Preliminary Injunction is **FOUND as MOOT.**¹

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.
United States District Judge

January 8, 2019
Spartanburg, South Carolina

¹ The Court notes that because it lacks subject matter jurisdiction over Plaintiff's claim, amendment to the complaint could not cure the defects. See generally *Goode v. Cent. Va. Legal Aid Soc'y, Inc.*, 807 F.3d 619, 623 (4th Cir. 2015).

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.